

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dennis DeJoode,
Petitioner-Appellants,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-77-1319
Parcel No. 080/00657-000-000

On October 13, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Dennis DeJoode, requested a hearing and submitted evidence in support of his petition. He was self-represented. The Board of Review designated Assistant County Attorney Anastasia Hurn as its legal representative. It also submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Dennis DeJoode, owner of property located at 2017 Clark Street, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story dwelling having 591 square feet of main level living area and 640 square feet of upper level living area, for a total of 1231 total square feet of living area. It has no basement and an attached 312 square foot garage. The dwelling was built in 1981, has a 4-05 quality grade, and is in below-normal condition. The dwelling is situated on a 0.183 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$66,700, representing \$8000 in land value and \$58,700 in improvement value.

DeJoode protested to the Board of Review on the grounds that the property assessment is not equitable compared to the assessments of like properties in the taxing jurisdiction under Iowa Code 441.37(1)(a); is assessed for more than authorized by law under section 441.37(1)(b); there was an error in the assessment under section 441.37(1)(d). The specific error he claimed was that the property should have a lower assessed value because of rundown neighborhood conditions, such as abandoned homes, crime, and high foreclosure rate, and the declining economy. He claimed that \$63,900¹ was the actual value and a fair assessment of the property.

The Board of Review appraiser analysis included three sales of comparable property, two were 2007 sales and one was a 2008 sale. The unadjusted sale price per square foot ranged from \$58.91 to \$103.83. Adjusted sale price per square foot ranged from \$40.57 to \$73.35, with a median of \$41.34 per square foot. The subject property is assessed at \$54.18 per square foot which is well within the adjusted range of values. The appraiser recommended the assessment remain unchanged, and the Board of Review denied the protest.

DeJoode filed his appeal with this Board and claimed there was an error in the land value of the assessment. The error he claimed is essentially that the subject property was over-assessed. DeJoode also challenged the assessment on the basis that there had been a downward change in value of the property under sections 441.37(1) and 441.35. In a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change as a separate claim and consider only the claim of over-assessment.

DeJoode testified the Martin Luther King Parkway neighborhood, where the subject property is located, is in disrepair with a prevalence of run-down, boarded-up, abandoned, and foreclosure properties. DeJoode questions the 4% to 4 1/2% increase in assessment in this area when he observes

¹ The 2008 assessed value was \$63,900 and the 2009 value represents a 4.3% increase.

substantial decline in area conditions since the last reassessment. He believes there is a pattern of over-assessment in the neighborhood. He describes deficiencies in the subject property including lack of a basement and its location surrounded by run down houses.

Cris Swaim of Swaim Appraisal Services in West Des Moines completed an appraisal of the property and testified on behalf of the Board of Review. Swaim describes the market area as consisting primarily of older homes built prior to 1950. In his opinion, the subject property is unique for the area because it was built in 1981 and has no basement. He notes that many homes in the area show deferred maintenance and the market has a higher percentage of REO properties than most other markets throughout central Iowa.

Swaim reports eleven area sales in 2008 with sale prices between \$40,000 and \$90,000 and a median sale price of \$73,000. He inspected the interior and exterior of the property. Although the flooring is older and there has been minimal updating, in his opinion the home was adequately maintained and in average condition. Swaim completed the sales approach to valuation using three comparable sales and one pending sale within a distance of less than three miles of the subject property. Swaim testified three of the four sales used were outside DeJoode's immediate neighborhood in order to find comparables built after 1970 without basements. The sale prices of the comparables ranged from \$57,000 to \$84,500. Swaim made adjustment for seller concessions, age, condition, quality of construction, garages, heating/cooling features, and other amenities. Net adjustments ranged from -15.4% to 20.4%. Adjusted sale prices per square foot ranged from \$63,900 to \$73,400. Swaim values the property at \$68,000 by the sales approach.

Because the property is a rental, Swaim also completed an income approach to valuation using his estimated \$760 monthly market rent and a gross rent multiplier of 88 to arrive a value of \$66,880. The subject property rents for \$600 monthly. Swaim's final estimate of value, considering both the

income and sales approaches, was \$68,000, as of January 1, 2009. The subject property is assessed at \$66,700, which is below Swaim's opinion of value.

Reviewing all the evidence, we find the preponderance of evidence does not support DeJoode's contention the subject property is assessed for more than authorized by law. We find the Swaim appraisal provides credible evidence of the fair market value of the subject property and supports the January 1, 2009, assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

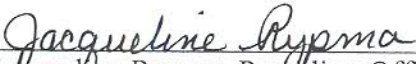
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). DeJoode failed to prove by a preponderance of evidence that the subject property is assessed for more than authorized by law. To the contrary, the Swaim appraisal supports the assessment as accurately reflecting the property's fair market value as of January 1, 2009.

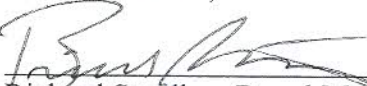
Viewing the evidence as a whole, we determine that substantial evidence was lacking to support DeJoode's claim the property was assessed for more than authorized by law as of January 1, 2009. Therefore, we affirm the DeJoode property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$66,700, representing \$8000 in land value and \$58,700 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 14 day of December 2010.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Chair


Richard Stradley, Board Member

Copies to:
Dennis DeJoode
2501 E. Leach Avenue
Des Moines, IA 50320
APPELLANT

Anastasia Hurn
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEY FOR APPELLEE

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| Certificate of Service | |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-14</u> , 201 <u>0</u> | |
| By: | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX |
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